

CONTRACTOR REGISTRATION ACT ►

Neb. Rev. Stat. §§48-2101 to 48-2116

[Current Through 2014 Regular Session]

STATE OF NEBRASKA

DAVE HEINEMAN, Governor

DEPARTMENT OF LABOR

JOHN H. ALBIN, Acting Commissioner

CONTRACTOR REGISTRATION ACT

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TEXT OF THE LAW

48-2101. Act, how cited. Sections 48-2101 to 48-2117 shall be known and may be cited as the Contractor Registration Act.

Source: Laws 1994, LB 248, § 1; Laws 2009, LB162, § 1.

Operative Date: January 1, 2010

48-2102. Legislative intent. It is the intent of the Legislature that all contractors doing business in Nebraska be registered with the department. It is not the intent of the Legislature to endorse the quality or performance of services provided by any individual contractor.

Source: Laws 1994, LB 248, § 2; Laws 2008, LB204, § 1.

Effective Date: July 18, 2008.

48-2103. Terms, defined. For purposes of the Contractor Registration Act:

(1) Commissioner means the Commissioner of Labor;

(2) Construction means work on real property and annexations, including new work, additions, alterations, reconstruction, installations, and repairs performed at one or more different sites which may be dispersed geographically;

(3) Contractor means an individual, firm, partnership, limited liability company, corporation, or other association of persons engaged in the business of the construction, alteration, repairing, dismantling, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks and towers, airports, dams, levees and canals, water wells, pipelines, transmission and power lines, and every other type of structure, project, development, or improvement within the definition of real property and personal property, including such construction, repairing, or alteration of such property to be held either for sale or rental. Contractor also includes any subcontractor engaged in the business of such activities and any person who is providing or arranging for labor for such activities, either as an employee or as an independent contractor, for any contractor or person;

(4) Department means the Department of Labor;

(5) Nonresident contractor means a contractor who neither is domiciled in nor maintains a permanent place of business in this state or who, being so domiciled or maintaining such permanent place of residence, spends in the aggregate less than six months of the year in this state; and

(6) Working days means Mondays through Fridays but does not include Saturdays, Sundays, or federal or state holidays. In computing fifteen working days, the day of receipt of any notice is not included and the last day of the fifteen working days is included.

Source: Laws 1994, LB 248, § 3; Laws 2008, LB204, § 2; Laws 2009, LB162, § 2.

Operative Date: January 1, 2010

48-2104. Registration required. (1) Before performing any construction work in Nebraska, a contractor shall be registered with the department. If a contractor does business under more than one name, the contractor shall obtain a registration number for each name under which the contractor is doing business.

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Any person who performs work or has work performed on his or her own property or any person who earns less than five thousand dollars annually for construction services is not a contractor for purposes of the Contractor Registration Act.

(2) An exemption from the requirements under subsection (1) of this section does not exempt a contractor from withholding requirements under the Nebraska Revenue Act of 1967.

Source: Laws 1994, LB 248, § 4; Laws 2008, LB204, § 3; Laws 2009, LB162, § 3.

Operative Date: January 1, 2010

Cross References: *Nebraska Revenue Act of 1967*, see section 77-2701.

48-2105. Registration; application; contents; renewal. Each contractor shall apply to the department for a registration number on an application form provided by the department. The application shall contain the following information:

(1) The name and federal employer identification number or, if the applicant is an individual, the social security number of the contractor;

(2) The principal place of business of the contractor in Nebraska. If the contractor's principal place of business is outside Nebraska, the application shall state the address of the contractor's principal place of business and the name and address of the contractor's registered agent in Nebraska;

(3) The telephone number of the contractor in the State of Nebraska. If the contractor's principal place of business is outside Nebraska, the application shall state the telephone number of the contractor's principal place of business and the telephone number of the contractor's registered agent in Nebraska;

(4) The type of business entity of the contractor such as corporation, partnership, limited liability company, sole proprietorship, or trust;

(5) The contractor option election to collect and remit sales and use tax on purchases of building materials and fixtures annexed to real property;

(6) The following information about the business entity:

(a) If the contractor is a corporation, the name, address, telephone number, and position of each officer of the corporation; and

(b) If the contractor is other than a corporation, the name, address, and telephone number of each owner;

(7) Proof of (a) a certificate or policy of insurance written by an insurance carrier duly authorized to do business in this state which gives the effective dates of workers' compensation insurance coverage indicating that it is in force, (b) a certificate evidencing approval of self-insurance privileges as provided by the Nebraska Workers' Compensation Court pursuant to section 48-145, or (c) a signed statement indicating that the contractor is not required to carry workers' compensation insurance pursuant to the Nebraska Workers' Compensation Act; and

(8) A description of the business which includes the employer's standard industrial classification code or the principal products and services provided.

Each application shall be renewed annually upon payment of the fee prescribed in section 48-2107.

Source: Laws 1994, LB 248, § 5; Laws 1997, LB 752, § 129; Laws 2009, LB162, § 4.

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Operative Date: January 1, 2010

Cross References: *Nebraska Workers' Compensation Act*, see section 48-1,110.

48-2106. Application; report of change; amendments. (1) A contractor shall report to the commissioner any change in the information originally reported on or with the application under section 48-2105 within fifteen days of the change, except that the contractor shall notify the commissioner of changes in workers' compensation insurance coverage at least ten days prior to any change in coverage.

(2) After the time specified in subsection (1) of this section, the commissioner, with good cause shown, may determine that amendments may be made to correct an application.

(3) Amendments to applications shall not be permitted when a change occurs in the business classification such as a change from a sole proprietorship to a corporation.

Source: Laws 1994, LB 248, § 6.

48-2107. Fees; exemption. (1) Each application or renewal under section 48-2105 shall be signed by the applicant and accompanied by a fee of forty dollars. The commissioner may adopt and promulgate rules and regulations to establish the criteria for acceptability of filing documents and making payments electronically. The criteria may include requirements for electronic signatures. The commissioner may refuse to accept any electronic filings or payments that do not meet the criteria established. The fee shall not be required when an amendment to an application is submitted. The commissioner shall remit the fees collected under this subsection to the State Treasurer for credit to the Contractor Registration Cash Fund.

(2) A contractor shall not be required to pay the fee under subsection (1) of this section if (a) the contractor is self-employed and does not pay more than three thousand dollars annually to employ other persons in the business and the application contains a statement made under oath or equivalent affirmation setting forth such information or (b) the contractor only engages in the construction of water wells or installation of septic systems. At any time that a contractor no longer qualifies for exemption from the fee, the fee shall be paid to the department. Any false statement made under subdivision (2)(a) of this section shall be a violation of section 28-915.01.

(3) The commissioner shall charge an additional fee of twenty-five dollars for the registration of each nonresident contractor and a fee of twenty-five dollars for the registration of each contract to which a nonresident contractor is a party if the total contract price or compensation to be received is more than ten thousand dollars. The commissioner shall remit the fees collected under this subsection to the State Treasurer for credit to the General Fund.

Source: Laws 1994, LB 248, § 7; Laws 2008, LB204, § 4; Laws 2009, LB162, § 5.

Operative Date: January 1, 2010

48-2108. Registration number. Within thirty days of receipt of a completed application, the commissioner shall issue to the contractor a registration number. The registration number shall be a five-digit number followed by a two-digit number indicating the year of issuance.

Source: Laws 1994, LB 248, § 8.

48-2109. Cancellation of workers' compensation insurance policy; notice required. Any insurance company carrying a contractor's workers' compensation insurance policy shall notify the department in case of cancellation by either the insurance company or the contractor of such policy. The notice shall contain

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- (1) the name of the insurance carrier,
- (2) the name of the insured contractor, and
- (3) the date the cancellation is effective.

Contractors who are approved by the Nebraska Workers' Compensation Court for self-insurance shall notify the department at least ten days prior to the termination of such self-insurance.

Source: Laws 1994, LB 248, § 9.

48-2110. Failure to maintain workers' compensation insurance; notice of revocation. The commissioner shall issue a notice of revocation of registration to a contractor when an investigation reveals that the contractor no longer meets the conditions of registration set out in section 48-2105 by failure to maintain compliance with the laws of this state relating to workers' compensation insurance coverage. If the commissioner receives a notice of cancellation of workers' compensation insurance coverage, the commissioner shall revoke the registration as of the time of cancellation unless the contractor provides a new certification of insurance prior to the cancellation date.

Source: Laws 1994, LB 248, § 14.

48-2111. Notice of revocation; service; hearing. The commissioner shall serve notice of revocation on the contractor by mailing such notice by certified mail or any other manner of delivery by which the United States Postal Service can verify delivery to the address of the contractor or the contractor's registered agent listed in the application. Upon a showing of compliance with the application requirements set out in section 48-2105, the commissioner may temporarily reinstate the registration pending a hearing on the revocation. A registration revoked under this section shall not be permanently reinstated. To receive a new registration number, the contractor shall reapply to the commissioner.

Source: Laws 1994, LB 248, § 15; Laws 2001, LB 180, § 7.

48-2112. Investigatory powers. (1) The commissioner may make investigations he or she finds necessary or appropriate to determine if there is compliance with the Contractor Registration Act. Investigations shall take place at the times and places as the commissioner directs. For purposes of any investigation under this section, the commissioner may interview persons at the work site, take photographs, and utilize other reasonable investigatory techniques. The conduct of the investigation shall be such as to preclude unreasonable disruption of the operations of the work site. Investigations may be conducted, without prior notice, by correspondence, telephone conversations, or review of materials submitted to the department.

(2) For purposes of any investigation or proceeding under this section, the commissioner or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(3) In case of contumacy by or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the commissioner, may issue to such person an order requiring him or her to appear before the commissioner or the officer designated by the commissioner and produce documentary evidence if so ordered or give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt.

Source: Laws 1994, LB 248, § 10.

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48-2113. Complaints. Written complaints regarding the registration of a contractor made to the commissioner in which the complainant provides his or her name and address shall receive a written response as to the results of the investigation. A complainant's name and other identifying information shall not be released if the complaint was included as a part of another complaint when the complainant's identity would be protected under other statutes or rules and regulations.

Source: Laws 1994, LB 248, § 11.

48-2114. Violation; citation; penalty; legal representation. (1) The commissioner shall issue a citation to a contractor when an investigation reveals that the contractor has violated:

(a) The requirement that the contractor be registered; or

(b) The requirement that the contractor's registration information be substantially complete and accurate.

(2) When a citation is issued, the commissioner shall notify the contractor of the proposed administrative penalty, if any, by certified mail or any other manner of delivery by which the United States Postal Service can verify delivery. The administrative penalty shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars in the case of a second or subsequent violation.

(3) The contractor shall have fifteen working days from the date of the citation or penalty to contest such citation or penalty. Notice of contest shall be sent to the commissioner who shall provide a hearing pursuant to the Administrative Procedure Act.

(4) If the contractor has never been registered under the Contractor Registration Act, the contractor shall have sixty working days from the date of the citation to register. No administrative penalty shall be assessed if the contractor registers within such sixty-day period. This subsection shall remain in effect until March 1, 2009.

(5) In any civil action to enforce the Contractor Registration Act, the commissioner and the state may be represented by any qualified attorney who is employed by the commissioner and is designated by him or her for this purpose or at the commissioner's request by the Attorney General.

Source: Laws 1994, LB 248, § 12; Laws 2001, LB 180, § 8; Laws 2008, LB204, § 5.

Effective Date: July 18, 2008.

Cross Reference: Administrative Procedure Act, see section 84-920.

48-2115. Contractor Registration Cash Fund; created; use; investment. There is hereby created the Contractor Registration Cash Fund to be administered by the department and used to enforce the Contractor Registration Act and the Employee Classification Act. The fund shall consist of such sums as are appropriated to it by the Legislature and any fees collected in the administration of the acts that are to be credited to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1994, LB 248, § 13; Laws 1995, LB 7, § 52; Laws 2008, LB204, § 6; Laws 2009, LB162, § 7; Laws 2010, LB563, § 13.

Effective Date: July 15, 2010

Cross References: Employee Classification Act, see section 48-2901.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

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48-2116. Applicability of act. The Contractor Registration Act shall not apply to the state or any political subdivision thereof.

Source: Laws 1994, LB 248, § 16.

48-2117. Data base of contractors; removal. (1) The Department of Labor, in conjunction with the Department of Revenue, shall create a data base of contractors who are registered under the Contractor Registration Act and the Nebraska Revenue Act of 1967. The data base shall be accessible on the web site of the Department of Labor.

(2) Any contractor that fails to comply with the requirements of the Contractor Registration Act or Nebraska Revenue Act of 1967 shall be removed from the data base.

Source: Laws 2009, LB162, § 6.

Operative Date: January 1, 2010

Cross References: *Nebraska Revenue Act of 1967*, see section 77-2701.